

INITIAL STATEMENT OF REASONS

The Department of Social Services (Department), through the Child Care Licensing Program within the Community Care Licensing Division, is responsible for licensing Child Care Centers (CCCs) and ensuring that children enrolled in them receive care and supervision that meets their needs [Health & Safety Code (H&S) sections 1596.70-1597.21; Title 22, California Code Regulations (CCR), sections 101151-101439.1]. Sudden Infant Death Syndrome (SIDS) is a persistent problem that periodically results in infant deaths at licensed facilities. Based upon the most current medical knowledge and recommendations, the Department is submitting these regulations to clarify the manner staff provide care and supervision for infants, to require CCCs to develop an Individual Infant Sleeping Plan for each enrolled infant and specify acceptable infant care center sleeping equipment.

The Department has also determined that there is a risk to all children enrolled at CCCs using fixtures, furniture, and equipment that have been banned or recalled by the federal government. Accordingly, a regulation is being submitted to eliminate this risk as well. All regulations submitted are located within CCR, Title 22, Division 12.

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Specific Regulations

Sections 101239(r) and (r)(1)

Problem:

Licensed child care centers may have fixtures, furniture, and equipment that have been banned or recalled by the United States Product Safety Commission (the Commission), putting the safety of enrolled children at risk.

Specific Purpose:

This section is being adopted to require centers to only use fixtures, furniture, and equipment approved by the Commission.

Factual Basis:

This section is necessary to bring Sections 101439(r) and (r)(1) into compliance with Federal standards for fixtures, furniture, and equipment. In accordance with national recommendations, "Caring for Our Children," standard 6.2.1.1, facilities are

prohibited from using banned or recalled fixtures to protect enrolled children. Banned and recalled items shall be removed from the facility unless the CCC has proof that the manufacturer has corrected the item, so it meets the Commission's standards.

Sections 101416.5 (d) and (d)(1)

Problem:

Section 101416.5 establishes staff-infant ratios. Sections 101416.5, (d), and (d)(1) require a teacher or an aide to visually observe 12 sleeping infants. The visual observation requirement, as set forth in Section 101416.5, is confusing, difficult to enforce, and superfluous. The Department has, in greater detail, described the manner staff shall provide care and supervision for infants in Section 101429.

Specific Purpose:

This section is being amended to remove "visually observe" from Subsection (d) and "visually observe 12 sleeping infants" from Subsection (d)(1) as the visual observation requirement does not provide increased safety for infants beyond that as set forth in Section 101429.

Factual Basis:

This amendment is necessary to clarify how staff shall provide care and supervision for infants.

Section 101419.2(b)(2) and (b)(2)(A)

Problem:

Section 101419.2 sets forth the content of an Infant Needs and Services Plan that the CCC must complete prior to enrolling an infant at the facility. CCCs are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendation standard 3.1.4.1, attached, child care facilities should have a written policy in place that addresses safe sleep practices used within the facility. The American Academy of Pediatrics supports this recommendation.

Specific Purpose:

This section is being adopted to enable parents and caregivers to understand the typical sleep habits of the infant being enrolled into care. Inclusion of a required Individual Infant Sleeping Plan within the Infant Needs and Services Plan provides an opportunity for the parent and the caregivers to discuss the individual needs of

the infant regarding safe sleep. If the infant needs medical exemptions to established safe sleep practices, this form shall be utilized for this purpose.

Factual Basis:

As noted, CCCs should have a written policy in place that addresses safe sleep practices used in the facility. Adoption of this section will require CCCs to implement such practices by reference to individual infants enrolled into care. As a fundamental practice in caring for infants, caregivers should discuss an infant's baseline behavior to more rapidly detect anomalies during sleep. The completion of this form prior to care can potentially mitigate risk of infant sleep related deaths. According to an article published by the American Academy of Pediatrics titled "Sudden Infant Death Syndrome in Child Care Settings," 20% of all SIDS deaths occur in child care settings.

Section 101419.2(b)(2) through (4) renumbered to 101419.2(b)(3) through (5)

Problem/Specific Purpose/Factual Basis:

This section has been renumbered for consistency and clarity.

Section 101419.2(d) and (d)(1)

Problem:

Sections 101419.2(d) and (d)(1) set forth the content of the Infant Needs and Services Plan that the CCC must complete prior to enrolling an infant at the facility. The Department has submitted an amendment that requires caregivers to execute an Infant Individual Sleeping Plan as part of the needs and services plan. There is no requirement that the needs and services plan be maintained and made available for the Department to review. Without such a requirement, the Department would lack the ability to determine if CCCs have developed this needs and services plan for infants.

Specific Purpose:

This section is being adopted to ensure that CCCs maintain the needs and services plan once completed and make it available to the Department should the need arise for review. It also ensures that CCCs understand that they must retain such information as a record of required information to be kept on the infant.

Factual Basis:

This section is necessary to ensure the records of infants are kept up to date and maintained at the facility. Previously, the Department did not have clear requirements to maintain such information. In the absence of current information,

the Department's ability to determine if CCCs are providing appropriate care and supervision is compromised.

Sections 101429(a)(1) and 101429(a)(2)(A)

Problem:

Section 101429(a)(2)(A) specifies how caregivers must provide care and supervision for infants. There are currently no provisions that set forth how caregivers must provide it for infants in a designated sleeping area. The general requirements set forth in Section 101429(a)(2)(A) create confusion for caregivers that utilize a transparent wall or a half wall so that they may supervise sleeping infants, as well as other infants who have awakened, thus, dividing their attention. A staff person should engage in constant audio and visual supervision of sleeping infants to recognize signs of distress or possible hazards that may result in an unsafe sleeping environment that puts an infant at greater risk of SIDS.

Specific Purpose:

This section is being adopted to ensure caregivers supervise sleeping infants through auditory and visual observation. A staff person must always be present in the designated sleeping area.

Factual Basis:

This section is necessary to be in conformity with national standards for infant safe sleep in child care settings to reduce the risk of SIDS. This requirement is supported by Caring for Our Children National Recommendations section 3.1.4.1 (k), attached.

This recommendation is also supported by the American Academy of Pediatrics. It is also the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 101429(a)(2)(B) and (C)

Problem:

Sections 101429(a)(2)(B) and (C) specify how caregivers must provide care and supervision for infants. There are currently no provisions that set forth how caregivers must provide it for infants in a designated sleeping area. More specifically, caregivers are not required to monitor infants for specific signs of distress that may indicate that an infant is at risk for SIDS.

Specific Purpose:

This section is being added to require that staff monitor infants for specified signs of distress and follow proper medical and/or notification requirements as set forth in Section 101226. This section also requires caregivers to check on the position of the infant and to re-position them if they cannot roll from back to stomach and stomach to back unassisted.

Factual Basis:

This section is necessary to ensure that caregivers can identify signs of infant distress associated with SIDS. In addition, this section creates uniformity with current requirements to notify the infant's authorized representative or seek immediate medical attention, depending on what is observed. Should the infant experience any symptoms of distress, be in an unsafe sleeping position, or exhibit signs of overheating, the caregiver will be required to take immediate and appropriate action.

Section 101430(a)(3)(A)

Problem:

Section 101430(a)(3)(A) requires CCCs to develop and implement a written plan to ensure the provision of indoor and outdoor activities meet the needs of infants. While Section 101430(a)(3) requires that caregivers provide infants with the opportunity to sleep when they desire, it does not require them to comply with specified safe sleep practices.

According to the National Institute of Child Health and Human Development and the American Academy of Pediatrics, infants sleeping on their stomach or side have the highest risk for SIDS, while those who sleep on their backs have the lowest risk. Caring for Our Children National Recommendations, First Candle, and the California SIDS Program support this conclusion. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Specific Purpose:

This section is being adopted to ensure infants aged 12 months or younger are placed on their back to sleep to reduce the risk of suffocation or SIDS.

Factual Basis:

This section is necessary to be in conformity with the national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS.

Section 101430(a)(3)(A)1.

Problem:

Section 101430, subdivision (a)(3)(A), as submitted, requires caregivers to place infants aged 12 months or younger on their back to sleep to reduce the risk of suffocation or SIDS. There is no provision that allows for a medical exemption for an alternative sleep position.

Specific Purpose:

This section is being adopted to provide caregivers with flexibility in relation to the sleeping positions for infants who require an alternative to being placed on their back for medical reasons. This section will permit caregivers to allow infants to sleep in an alternative position in accordance with medical recommendations if the recommendation is documented as specified.

Factual Basis:

This section is necessary to enable some infants to sleep in a manner contrary to safe sleep practices for medical reasons. The adoption of this section conforms to other Department regulations that allow caregivers to provide care and supervision consistent with professional medical advice.

Section 101430(a)(3)(A)2.

Problem:

Section 101430(a)(3)(A), as submitted, requires caregivers to place infants aged 12 months or younger on their back to sleep to reduce the risk of suffocation or SIDS. There is no provision that specifies how caregivers shall determine when it is acceptable to allow an infant who is developmentally ready to remain in a position other than on their back to sleep.

According to National Institute of Child Health and Human Development and the American Academy of Pediatrics, infants sleeping on their stomach or side have the highest risk for SIDS, while those who sleep on their backs have the lowest risk. However, infants will be able to developmentally shift sleeping positions safely. Caring for Our Children National Recommendations, First Candle, and the California SIDS Program support this conclusion.

Specific Purpose:

This section is being adopted to relieve caregivers from the responsibility of ensuring the infants remain on their back to sleep after the infant has reached the developmental milestone of rolling over and back, unassisted. Once the infant has

displayed the ability to change positions safely, Section C in the Individual Sleeping Plan shall be completed and signed by an authorized representative.

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices that are consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS.

Section 101430(a)(3) and (a)(3)(B) and (B)(1)

Problem:

The Department seeks to amend section 101430 to require CCCs to comply with specified safe sleep practices. If adopted, there is a need to clarify that it applies to any sleep, not napping, and to realign Section 101430(a)(3)(A).

Specific Purpose:

These sections are being amended to align language by replacing the term "nap" with "sleep" in Sections 101430 (a)(3) and 101430 (a)(3)(B)1. In addition, the term "napping" was replaced with "sleeping" in Section 101430 (a)(3)(B) to remain consistent. Section 101430(a)(3)(A) is renumbered to 101430(a)(3)(B) for consistency and clarity.

Factual Basis:

This section is necessary to bring conformity and consistency to CCC regulations by utilizing the term "sleep" or "sleeping" and removing references to "nap" or "napping". By doing so, the regulations are aligned with national safe sleep standards as well as safe sleep practices.

Section 101430(a)(3)(C)

Problem:

Section 101430(a)(3) requires that caregivers provide infants with the opportunity to sleep when they desire; it does not require them to comply with specified safe sleep practices which may place the infant in undue harm.

Specific Purpose:

This section is being adopted to prohibit caregivers from swaddling infants in a child care setting. Swaddling places infants at an undue risk for SIDS or suffocation.

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. According to the Caring for Our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 101430(a)(3)(D)

Problem:

Section 101430(a)(3) requires that caregivers provide infants with the opportunity to sleep when they desire; it does not require them to comply with specified safe sleep practices which may place the infant in undue harm.

Specific Purpose:

This section is being adopted to prohibit caregivers from covering an infant while sleeping and ensure that precautions are observed so that the infant is not at risk of overheating or suffocation. The prohibition will prevent caregivers from placing infants at undue risk for SIDS or suffocation.

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics, this requirement would reduce the risk of SIDS and suffocation. Caring for Our Children National Recommendations and the California SIDS Program are consistent with this conclusion. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 101430(a)(3)(E)

Problem:

Section 101430(a)(3) requires that caregivers provide infants with the opportunity to sleep when they desire; it does not require them to comply with specified safe sleep practices.

Specific Purpose:

This section is being adopted to require caregivers to place an infant in a crib as soon as possible if the child falls asleep elsewhere. There have been significant numbers of deaths that have occurred in child care settings due caregivers allowing an infant to sleep on surfaces other than a crib or play yard. This requirement minimizes the risk of SIDS or suffocation.

Factual Basis:

This section is necessary to require caregivers to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. Caring for Our Children National Recommendations are consistent with this conclusion and the California SIDS Program and the American Academy of Pediatrics support it. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Sections 101439.1(b), (b)(1), (b)(2)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. The requirements are outdated in light of current knowledge regarding sheets and mattresses necessary for infant safety.

Specific Purpose:

This section is being adopted to require CCCs to use cribs that meet Commission standards with firm mattresses and fitted sheets that are appropriate for the size of the mattress. Mattresses must also be made specifically for the crib size in which they are placed. Such requirements ensure that caregivers place infants on a firm safe sleep surface to reduce the risk of suffocation, entrapment, and strangulation. They will additionally eliminate the risk of a child getting lodged between the mattress and the crib. In addition, the heading for this regulation has been changed from "Infant Care Center Napping Equipment" to "Infant Care Sleeping Equipment" to conform to the same substitution in Section 101430(a)(3).

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. According to the Center for Disease Control, infants have been strangled or suffocated because of loose or ill-fitting sheets. Caring for Our Children National Recommendations are consistent with this conclusion and the California SIDS Program and the American Academy of Pediatrics support it.

Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

The Department is choosing to reference the Commission as an authority on determination of safe and appropriate equipment. It is an independent federal agency whose duty is to protect consumers from harmful or dangerous products sold in the United States.

Sections 101439.1(b)(1 through 4) is renumbered to Sections 101439.1(b)(3 through 6)

Problem/Specific Purpose/Factual Basis:

This section has been renumbered for consistency and clarity.

Section 101439.1(b)(5)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. Section 101439.1(b)(5) permits CCCs to use cribs with bumper pads. Bumper pads put infants at risk for undue harm.

Specific Purpose:

This section is being removed to prohibit CCCs from using cribs with bumper pads.

Factual Basis:

This removal of this section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. It is also necessary to reduce the incidence of injuries to infants that can result from the use of bumper pads.

Section 101439.1(e)(1)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. Section 101439.1(e)(1) requires CCCs to change infant bedding daily, but does not require that it be cleaned as well.

Specific Purpose:

This section is being adopted to require caregivers to sanitize bedding for infants daily to reduce the spread of communicable diseases.

Factual Basis:

This section is necessary to require CCCs to maintain a sanitary environment for infants at their facilities. Caring for Our Children National Recommendations standards 3.3.0.4 and 5.4.5.1 are consistent with this conclusion.

Sections 101439.1(f)(1) through (3)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. It does not include provisions that specify the use of cribs in a manner consistent with safe sleep practices for infants.

Specific Purpose:

This section is being adopted to require CCCs to maintain cribs free from all loose articles and soft objects. It prohibits the use of bumper pads, the presence of objects hanging above a crib or attached to the side of it, and the exclusion of pacifiers except under specified circumstances to eliminate suffocation or strangulation risks.

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics this requirement would reduce the risk of SIDS and suffocation. Caring for Our Children National Recommendations are consistent with this conclusion and the California SIDS Program and the American Academy of Pediatrics support it. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 101439.1(f) is renumbered to Section 101439.1(g)

Problem/Specific Purpose/Factual Basis:

This section has been renumbered for consistency and clarity.

Section 102352(i)

Problem:

Section 102352 sets forth definitions of terms essential for the clear application of the California Code of Regulations (CCR), Title 22, Division 12, Chapter 3. Section 101352(i) sets forth a definition of the term "infant," which is consistent with terms used in CCCs, also regulated by Title 22.

Specific Purpose:

This section is being adopted to clarify the definition of "infants" in Family Child Care Homes (FCCHs).

Factual Basis:

This section is necessary for conformity and clarity in determining the age the Department will consider to be an "infant."

Section 102352(o)

Problem:

Section 102352 sets forth definitions of terms essential for the clear application of CCR, Title 22, Division 12, Chapter 3. FCCHs provide statutorily authorized overnight care and supervision of children, but there is no definition of "overnight care" in Section 102352.

Specific Purpose:

This section is being adopted to define "Overnight Care," provided by FCCH licensees.

Factual Basis:

This section is necessary to establish a timeframe for care being provided by FCCH licensees during the hours of 6 p.m. and 6 a.m. for parents that require care and supervision of their children outside of normal operating hours (e.g. night shifts, swing shifts).

Section 102352(p)(2)

Problem:

Section 102352 sets forth definitions of terms essential for the clear application of CCR, Title 22, Division 12, Chapter 3. The Department is seeking to adopt infant

safe sleep requirements for FCCH licensees. Such requirements would permit licensees to permit an infant to sleep in a play yard, making a definition of a "play yard" necessary for the implementation of these requirements.

Specific Purpose:

This section is being adopted to define "play yard" for licensed FCCHs.

Factual Basis:

This section is necessary to establish a definition for an infant safe sleep alternative other than cribs for licensed FCCHs. The Department is adopting an alternative that permits the use of fixtures, furniture, and equipment that has not been recalled or banned by the Commission. The Department is relying upon the Commission as an authority in the determination of safe and appropriate equipment. It is an independent federal agency whose duty is to protect consumers from harmful or dangerous products sold in the United States.

Section 102352(p)(2) is renumbered to Section 102352(p)(3)

Problem/Specific Purpose/Factual Basis:

This section has been renumbered for consistency and clarity.

Sections 102417(d)(1) and (d)(1)(A)

Problem:

Section 102417 specifies how a licensee shall safely operate an FCCH. While Subdivision (d) states that a licensee shall provide safe toys, play equipment, and materials, it does not specify how a licensee should do so.

Specific Purpose:

This section is being adopted to require licensees to only use fixtures, furniture, and equipment that have not been banned or recalled by the Commission.

Factual Basis:

This section is necessary to bring Section 102417 into compliance with Federal standards for fixtures, furniture, and equipment. In accordance with national recommendations, "Caring for Our Children" standard 6.2.1.1, attached, licensees are prohibited from using banned or recalled fixtures to protect enrolled children. Banned and recalled items shall be removed from the facility unless the licensee has proof that the manufacturer has corrected the item to meet the Commission's

standards. Such standards are also necessary for licensees to implement the infant safe sleep standards proposed in this Initial Statement of Reasons.

Section 102425(a)(1) through (4)

Problem:

Licensed FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to use safe cribs, play yards, and to reduce the risk of suffocation, entrapment, overheating, and strangulation. For safety reasons, licensees must ensure that entrances and exits are not made inaccessible or blocked because of utilizing sleeping equipment approved by the Commission. FCCHs often utilize smaller rooms as infant sleeping areas and the addition of approved sleeping equipment may pose a challenge on ensuring the environment is safe.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics, this requirement would reduce the risk of SIDS, suffocation, entrapment, and strangulation. American Academy of Pediatrics as well as Caring for Our Children National Recommendations and the California SIDS Program recommend a crib or play yard as the safest place for an infant to sleep as well as providing a safe sleep environment within the crib or play yard. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 102425 (a)(5) through (7)

Problem:

FCCH Licensees currently do not have any regulatory provisions that require them to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the spread of communicable diseases.

Specific Purpose:

This section is being adopted to require licensees to ensure that infants are sleeping in an area that has been properly cleaned and sanitized to reduce the spread of communicable diseases.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of communicable diseases. It is the Department's experience that there is a need for regulations governing the cleanliness of bedding for infants, which can potentially protect children in our licensed child care facilities from exposure to communicable diseases. Caring for Our Children National Recommendations standards 3.3.0.4 and 5.4.5.1 are consistent with this conclusion.

Section 102425(b)(1 through 3)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to keep a crib free from all loose articles and soft objects to eliminate suffocation or strangulation risks near a sleeping infant. Licensees are prohibited from using bumper pads for the same reasons. Pacifiers may be used if licensees comply with specified safety precautions.

Factual Basis:

This section is necessary to be in conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics, infant use of a pacifier while sleeping may reduce the risk of SIDS. The proposed requirements in this section are supported by American Academy of Pediatrics, Caring for our Children National Recommendations and the California SIDS Program. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Sections 102425(c) through (c)(2)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to obtain a signed and dated Individual Infant Sleeping Plan from a child's authorized representative. By doing so, licensees acknowledge that they have discussed the sleeping habits of the infant enrolled in care with their authorized representative.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendation standard 3.1.4.1, licensees should have a written policy in place that addresses safe sleep practices used in the facility. Other states such as North Carolina require a Safe Sleep Policy between the provider and parent and were used when developing our own safe sleep plan. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 102425(d)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to National Institute of Child Health and Human Development and the American Academy of Pediatrics, an infant sleeping on the stomach or side carries the highest risk for SIDS. Therefore, lying on the back to sleep is the best method. This recommendation is supported by Caring for our Children National Recommendations, First Candle, and the California SIDS Program. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Section 102425(d)(1)

Problem:

Section 102425(d), as submitted for adoption, requires licensees to place infants on their backs while sleeping. However, it does not permit licensees to allow infants to use a different sleeping position for medical reasons.

Specific Purpose:

This section is being adopted to provide licensees flexibility to allow infants to sleep in a position other than on their backs due to medical reasons. This section will allow for licensees to adhere to medical recommendations on a more individual basis. If the infant should need medical exemptions to the requirements, Section D of the infant's individual sleeping plan shall be used for this purpose.

Factual Basis:

This section is necessary to acknowledge that individual infants may have needs that require such flexibility. It is important for licensees to defer to licensed physicians regarding the medical needs of children in care. The adoption of this section conforms to other Department regulations that allow for medical professionals to address the infant's individual needs.

Section 102425(d)(2)

Problem:

Section 102425(c), as proposed for adoption, requires licensees to enter an individual sleeping plan for each infant in care. It does not include a procedure where the licensee may permit an infant to sleep in a position other than on their backs upon demonstrating an ability to do so.

Specific Purpose:

This section is being adopted to require licensees to share information with the authorized representative of an infant to determine whether the infant can roll over unassisted. This will enable the licensee and the representative to ensure that best practices are being followed. Upon discovering that the infant has reached the developmental milestone of rolling over and back, unassisted, the licensee and the representative may agree that the infant may remain in any position that suits them after being initially placed on their back to sleep.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS, while providing licensees with a process for determining when an infant may safely sleep in a position of their choice. According to National Institute of Child Health and Human Development, as well as the American Academy of Pediatrics, infants sleeping on their stomach or side carry the highest risk of SIDS, back to sleep is best. Eventually an infant will be able to shift sleeping positions safely. This recommendation is supported by American Academy of Pediatrics, Caring for our Children National Recommendations, the California SIDS Program, and First Candle.

Sections 102425(e) and (e)(1)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to prevent licensees from forcing infants to sleep, stay awake, or stay in the sleeping area. Licensees may, however, schedule sleep times for infants over the age of 12 months, thus, allowing for a more robust schedule.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS, as well as other Department regulations. In Caring for Our Children National Recommendations section 3.1.4.4, rest periods are recommended, but should not be forced upon children.

Section 102425(f)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to prohibit licensee from swaddling infants.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Sections 102425(g) and (h)

Problem:

FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licenses to place infants in a safe sleep environment, such as a crib or play yard, if they fall asleep on a different surface. Licensees are expressly prohibited from allowing infants to sleep in car seats.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. More specifically, there have been many infant deaths in California that have resulted from sleeping in car seats and other unsafe sleeping surfaces.

Sections 102425(i)(1) through (7)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being added to require licensees to check infants for specified signs of distress and follow proper medical and/or notification requirements upon the recognition of signs of distress. This section also requires licensees to check on the position of the infant and to reposition them if they cannot roll from back to stomach and stomach to back unassisted.

Factual Basis:

This section is necessary to ensure that licensees understand and recognize signs of infant distress. In a review of unsafe sleep related deaths and situations in which infants required medical care, the infant had been left alone for a period while sleeping. Requiring licensees to check infants in 15-minute increments during their sleep time increases the probability that the licensee will more promptly identify signs of distress and assist infants that display such signs. This section additionally creates conformity with other requirements about the licensee's responsibility to seek emergency medical care if the situation warrants this response.

Sections 102426(a)(1 through 4) and (b)

Problem:

The FCCHs currently have no regulatory provisions that address the provision of child care by licensees outside of conventional business hours.

Specific Purpose:

This section establishes requirements for licensees who provide child care outside of conventional business hours, from 6 p. m. to 6 a. m. Licensees provide care and supervision analogous to that offered in a home-like setting. This section requires licensees to ensure that children in care are supervised, afforded the proper clothes and bedding, and allows for supplemental supervision aides.

Factual Basis:

This section is necessary to address the needs of children in a care setting during overnight hours defined as 6 p.m. to 6 a.m. Care provided during this time allows a child's authorized representative to have an option for safe, licensed care outside of normal operating hours (e.g. night shifts, swing shifts). Such care has not been regulated and supervision has not been mandated outside of existing requirements. The proposed regulations require licensees to monitor children and aid when necessary.

Form LIC 9227 sections A-B

Problem:

Form LIC 9227 sections A-B set forth the requirements for parents and providers to communicate about the infant's sleeping habits. The lack of this requirement puts licensees out of conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

Form 9227 sections A-B are being adopted to enable parents and caregivers to understand the typical sleep habits of the infant being enrolled into care. Inclusion of a required Individual Infant Sleeping Plan within the Infant Needs and Services Plan provides an opportunity for the parent and the caregivers to discuss the individual needs of the infant regarding safe sleep.

Factual Basis:

According to Caring for our Children National Recommendation standard 3.1.4.1, attached, child care facilities should have a written policy in place that addresses safe sleep practices used within the facility. Adoption of this form will require Child Care Facilities to implement such practices by reference to individual infants enrolled into care. As a fundamental practice in caring for infants, caregivers should discuss an infant's baseline behavior to more rapidly detect anomalies during sleep. The completion of this form prior to care can potentially mitigate risk of infant sleep related deaths. According to an article published by the American Academy of Pediatrics titled "Sudden Infant Death Syndrome in Child Care Settings," 20% of all SIDS deaths occur in child care settings.

Form LIC 9227 sections C-D

Problem:

Form LIC 9227 sections C–D sets forth the requirements for parents to share information on the infant’s developmental ability for rolling from their back to stomach and stomach to back in addition to the provider being able to document properly if the infant can do this the first time in care. The lack of this documentation requirement puts licensees out of conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

Form 9227 sections C-D are being adopted to require licensees to share information with the authorized representative of an infant to determine whether the infant can roll over unassisted. This will enable the licensee and the representative to ensure that best practices are being followed. Upon discovering that the infant has reached the developmental milestone of rolling over and back, unassisted, the licensee and the representative may agree that the infant may remain in any position that suits them after being initially placed on their back to sleep.

Factual Basis:

These sections are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS, while providing licensees with a process for determining when an infant may safely sleep in a position of their choice. According to the National Institute of Child Health and Human Development and the American Academy of Pediatrics, infants sleeping on their stomach or side carry the highest risk of SIDS. Therefore, infants sleeping on their back to sleep is best practice to reduce the risk of SIDS. Eventually, an infant will be able to shift sleeping positions safely. This recommendation is supported by American Academy of Pediatrics, Caring for our Children National Recommendations, the California SIDS Program, and First Candle.

Form LIC 9227 section E

Problem:

Form 9227 section E requires parents to submit the appropriate documentation to allow their infant to sleep in a different sleeping position other than their back for medical reasons.

Specific Purpose:

Form 9227 section E is being adopted to provide licensees flexibility to allow infants to sleep in a position other than on their backs due to medical reasons. This section will allow for licensees to adhere to medical recommendations on a more individual basis. If the infant should need medical exemptions to the requirements, Section D of the infant's individual sleeping plan shall be used for this purpose.

Factual Basis:

This section is necessary to acknowledge that individual infants may have needs that require such flexibility. It is important for licensees to defer to licensed physicians regarding the medical needs of children in care. The adoption of this section conforms to other Department regulations that allow for medical professionals to address the infant's individual needs.

b) Identification of Documents Upon Which Department Is Relying

Child Care Center Regulation Sections 101239 through 101439.1

Sections 101239(r) and (r)(1)

- Caring for Our Children National Recommendations (standard 5.4.5.1)
 - o <http://nrckids.org/CFOC/Database/5.4.5.1>

Sections 101419.2(b)(2) and (b)(2)(A)

- Caring for our Children National Recommendation (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- American Academy of Pediatrics – A Child Care Provider's Guide to Safe Sleep Publication – 2012
 - o <https://idahostars.org/portals/61/Docs/Parents/HealthSafety/SIDSchildcare/safesleep.pdf>

Section 101429(a)(2)(A)

- Caring for Our Children National Recommendations [standards 3.1.4.1(j) & 3.1.4(k)].
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- American Academy of Pediatrics – A Child Care Provider's Guide to Safe Sleep Publication – 2012

- <https://idahostars.org/portals/61/Docs/Parents/HealthSafety/SIDSchildcare/safesleep.pdf>

Section 101430(a)(3)(A)

- Child Health and Human Development
 - <https://www1.nichd.nih.gov/sts/about/risk/Pages/reduce.aspx>
- American Academy of Pediatrics - healthychildren.org
 - <https://www.healthychildren.org/English/news/Pages/AAP-Announces-New-Safe-Sleep-Recommendations-to-Protect-Against-SIDS-Sleep-Related-Infant-Deaths.aspx>
 - <https://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/Back-to-Sleep-Tummy-to-Play.aspx>
- Caring for Our Children National Recommendations [standard 3.1.4.1(a)]
 - <http://nrckids.org/CFOC/Database/3.1.4.1>
- First Candle
 - <http://firstcandle.org/caregivers-must-know/>
- California SIDS Program
 - <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>

Section 101430(a)(3)(A)2.

- National Institute of Child Health and Human Development
 - <https://www1.nichd.nih.gov/sts/about/risk/Pages/reduce.aspx>
- American Academy of Pediatrics - healthychildren.org
 - <https://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/Preventing-SIDS.aspx>
- Caring for Our Children National Recommendations (standard 3.1.4.1)
 - <http://nrckids.org/CFOC/Database/3.1.4.1>
- First Candle
 - <http://firstcandle.org/caregivers-must-know/>
- California SIDS Program – Safe Sleep Environment for Infants
 - <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>

Section 101430(a)(3)(C)

- Caring for Our Children National Recommendations (standard 3.1.4.2)
 - o <http://nrckids.org/CFOC/Database/3.1.4.2>

Section 101430(a)(3)(D)

- American Academy of Pediatrics - SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment (5)
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>
- Caring for Our Children National Recommendations (standards 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- California SIDS Program – Safe Sleep Environment for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
 - o

Section 101430(a)(3)(E)

- Caring for Our Children National Recommendations (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- California SIDS Program – Safe Sleep Environment for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
- American Academy of Pediatrics [sections 2(i) & 4(c)]
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>
 - o

Sections 101439.1(b) and (b)(1-2)

- Center for Disease Control
 - o <https://www.cdc.gov/sids/data.htm>
 - o <https://www.cdc.gov/sids/Parents-Caregivers.htm>
- Caring for Our Children National Recommendations (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- California SIDS Program - Safe Sleep Environments for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>

- American Academy of Pediatrics (numbers 2, 5, 12)
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>

Section 101439.1(e)(1)

- Caring for Our Children National Recommendations (standards 3.3.0.4 & 5.4.5.1)
 - o <http://nrckids.org/CFOC/Database/3.3.0.4>
 - o <http://nrckids.org/CFOC/Database/5.4.5.1>

Sections 101439.1(f)(1) through (3)

- American Academy of Pediatrics - healthychildren.org
 - o <https://healthychildren.org/English/ages-stages/baby/crying-colic/Pages/Pacifiers-Satisfying-Your-Babys-Needs.aspx>
- Caring for Our Children National Recommendations (standards 3.4.6.1 & 5.4.5.2)
 - o <http://nrckids.org/CFOC/Database/3.4.6.1>
 - o <http://nrckids.org/CFOC/Database/5.4.5.2>
- California SIDS Program - Safe Sleep Environments for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
- American Academy of Pediatrics [sections 1(d) & 5(a)]
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>
 - o

Sections 102417(d)(1) and (d)(1)(A)

- Caring for Our Children National Recommendations (standard 5.4.5.1)
 - o <http://nrckids.org/CFOC/Database/5.4.5.1>

Sections 102425 (a)(1) through (4)

- American Academy of Pediatrics - SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>
- Caring for our Children National Recommendations (standards 3.1.4.1 & 5.4.5.2 & 5.3.1.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
 - o <http://nrckids.org/CFOC/Database/5.4.5.2>
 - o <http://nrckids.org/CFOC/Database/5.3.1.1>

- California SIDS Program - Safe Sleep Environments for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>

Sections 102425 (a)(5) through (7)

- Caring for Our Children National Recommendations (standards 3.3.0.4 & 5.4.5.1)
 - o <http://nrckids.org/CFOC/Database/3.3.0.4>
 - o <http://nrckids.org/CFOC/Database/5.4.5.1>

Sections 102425(b)(1) through (3)

- American Academy of Pediatrics - healthychildren.org
 - o <https://healthychildren.org/English/ages-stages/baby/crying-colic/Pages/Pacifiers-Satisfying-Your-Babys-Needs.aspx>
- American Academy of Pediatrics (1 (d), 5(a))
 - o <http://pediatrics.aappublications.org/content/138/5/e20162938>
- Caring for our Children National Recommendations (standards 3.4.6.1 & 5.4.5.2)
 - o <http://nrckids.org/CFOC/Database/3.4.6.1>
 - o <http://nrckids.org/CFOC/Database/5.4.5.2>
- California SIDS Program - Safe Sleep Environments for Infants
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
 - o

Section 102425(c) and (c)(1)

- Caring for our Children National Recommendation (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
 - o

Section 102425 (d)

- National Institute of Child Health and Human Development
 - o <https://www1.nichd.nih.gov/sts/about/risk/Pages/reduce.aspx>
- American Academy of Pediatrics - healthychildren.org
 - o <https://www.healthychildren.org/English/news/Pages/AAP-Announces-New-Safe-Sleep-Recommendations-to-Protect-Against-SIDS-Sleep-Related-Infant-Deaths.aspx>
 - o <https://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/Back-to-Sleep-Tummy-to-Play.aspx>

- Caring for our Children National Recommendations (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- Caring First Candle
 - o <http://firstcandle.org/caregivers-must-know/>
- California SIDS Program
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
 - o

Section 102425 (d)(2)

- National Institute of Child Health and Human Development
 - o <https://www1.nichd.nih.gov/sts/about/risk/Pages/reduce.aspx>
- American Academy of Pediatrics - healthychildren.org
 - o <https://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/Preventing-SIDS.aspx>
- Caring for our Children National Recommendations (standard 3.1.4.1)
 - o <http://nrckids.org/CFOC/Database/3.1.4.1>
- California SIDS Program
 - o <https://www.cdph.ca.gov/Programs/CFH/DMCAH/SIDS/Pages/Safe-Sleep-Environments-for-Infants.aspx>
- First Candle
 - o <http://firstcandle.org/caregivers-must-know/>

Section 102425(e) and (e)(1)

- Caring for Our Children National Standards (standard 3.1.4.4)
 - o <http://nrckids.org/CFOC/Database/3.1.4.4>

Section 102425(f)

- Caring for our Children National Recommendations (standard 3.1.4.2)
 - o <http://nrckids.org/CFOC/Database/3.1.4.2>

c) Local Mandate Statement

There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code (GC) because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the GC.

d) Statement of Alternatives Considered

No alternatives have been presented for consideration, as the Department feels there are no safer or equivalent alternatives it is willing to consider.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will have an economic impact on Family Child Care Home facilities, as they will be required to have a crib or play yard for each infant in their care. The Department is allowing the play yard to be used as a substitute of a crib to be a less burdensome option for the child care providers who may not be able to afford the cribs or do not have the space for multiple cribs. Play yards allow for a safe and more affordable alternative to cribs, while still being considered a safe sleep surface.

f) Economic Impact Assessment

This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The Department will require safe sleep equipment such as cribs or play yards for FCCHs, supervision requirements during the time infants are asleep for FCCHs, clear guidelines surrounding supervision for sleeping infants in CCCs, and requirements for the safest sleep position for infants, and removing hazards in the crib while the infant is sleeping for all facilities. In addition, the proposed regulations will address proper and timely procedures to obtain emergency medical care.

Creation or Elimination of Jobs Within the State of California

There is a slight possibility that the proposed regulations may have an impact on the creation of jobs for child care centers due to the clarification that was given to existing regulations, requiring dedicated supervision of sleeping infants in child care centers. However, CDSS cannot make this determination based on the proposed regulations alone. Communications with stakeholders have not encountered any concern about the loss of jobs if the proposed regulation is adopted.

Creation of New or Elimination of Existing Businesses Within the State of California

The adoption of the proposed regulations will neither result in the creation of new businesses nor elimination of existing businesses in the State of California. There is a potential cost to businesses associated with the requirement that FCCHs must have adequate sleeping equipment for the infants in care, but CDSS does not believe the impact is enough to eliminate businesses. Communications with stakeholders have not encountered any concern about the elimination of businesses if the proposed regulation is adopted. However, there is a likely possibility of increased public trust in licensed child care because of the ability of centers to provide safer and healthier environments for infants in care, resulting in a potential increase in enrollment and revenue as a result.

Expansion of Businesses Within the State of California

CDSS does not have reason to believe that the proposed regulations would result in the expansion of businesses in California. However, there is a likely possibility of increased public trust in licensed child care because of the ability of centers to provide safer and healthier environments for infants in care, resulting in a potential increase in enrollment and revenue as a result.

Benefits of the Regulations

The benefits of the regulatory action to the health and welfare of infants served in child care environments are as follows: risks posed to the infants in child care settings will be decreased or eliminated, expected reduction of infant deaths in child care settings, and adequate and timely medical care will be required and create more proportionate requirements for FCCH providers, thus, ensuring a higher standard of care.

g) Benefits Anticipated from Regulatory Action

Every year infants are dying in unsafe sleeping environments in child care settings. The Department does not have clear authority in defining or identifying safe sleep environments. Many providers may be unaware of best practices in caring for infants resulting in traumatic, potentially avoidable consequences. With the implementation of these proposed regulations the child care provider will be mandated to provide adequate furnishings, as well as hazard free sleeping environments for infants, thereby, reducing sleep related deaths in licensed care facilities.

h) Statement of Specific Technology or Equipment

This regulatory action mandates the use of a play yard or crib in FCCHs. The American Academy of Pediatrics recommends the use of a crib as a safe sleeping surface for infants. However, in consultation with stakeholders with broad knowledge on safe sleep practices and research into play yards, the Department has determined that a play yard may be utilized in lieu of a crib as a safe alternative.

The Department has determined that the use of the Consumer Product Safety Commission (CPSC) as an authority of banned or recalled items is the best alternative to ensure clear and consistent guidelines for providers to utilize safe equipment.

CPSC is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction.